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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,022	01/21/2004	Anindya Roy	Roy-1	3991
23307	7590	12/31/2008		
FOX ROTHSCHILD LLP 1101 MARKET STREET SUITE 2600 PHILADELPHIA, PA 19107-2950				
EXAMINER				
LOO, JUVENA W				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
12/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/762,022

Applicant(s)

ROY, ANINDYA

Examiner

JUVENA LOO

Art Unit

2416

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 6-12 and 15-18.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached *Information Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2416

JUVENA LOO
Examiner
Art Unit: 2416

Continuation of 3. NOTE: The scopes of the amended claims 1, 16, and 17 are changed. The changes made to various claims are as follows: regarding claim 1, "the node ascertaining ." is changed to "the source node ascertaining" and "the node selecting..." is changed to "the source node selecting..."; regarding claim 16, "the node ascertaining..." is changed to "the source node ascertaining..." and "the node selecting..." is changed to "the source node selecting..."; regarding claim 17, "means at the node..." is changed to "means at the source...".

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claims 6, 10, 15, and 17, the applicant stated, in page 6, that "Shirai reference does not disclose ascertaining whether M alternative paths exist with available resources able to satisfy the RACR for transferring traffic between the source node and the destination node".

In response to applicant's statement, the examiner respectfully disagrees with the statement above. Shirai discloses the use of backup trunks for detouring traffic from the congested standard transit trunk (Shirai: see Figure 6 and "(d) Alternate transfer process to backup...detoured to the backup transit trunk 14" in column 15, line 46 through column 16, line 31; see also Figure 14 and "(f2) Second mode in which stepwise alternate...via the backup transit trunk 14b" in column 19, line 46 through column 20, line 8; see also Figures 27 and 28 and "(j) Alternate transfer process...to the backup transit trunk 14" in column 24, line 3 through column 25, line 15). The process of detouring to a backup transit trunk due to congestion in the standard transit trunk by the Transit Trunk Control Unit (Shirai, Unit 46 in Figures 6 and 14) does check for the availability of any backup trunks before switching occurs. These can be further explained in Figure 16 and Figure 18 of the Shirai (Shirai: see also "In such a configuration, the first...efficiency can be improved" in column 18, line 61 through column 19, line 45; see also "In such a configuration...according to the present embodiment" in column 19, lines 9 - 58).